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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,017	12/15/2003	Linda Marie Demetrius		4168

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Linda Demetrius
P.O. Box 1088
St. Helena Island, SC 29920

EXAMINER

HYLINSKI, ALYSSA MARIE

ART UNIT	PAPER NUMBER
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3711

MAIL DATE	DELIVERY MODE
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10/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/736,017	Applicant(s) DEMETRIUS, LINDA MARIE	
	Examiner Alyssa M. Hylinski	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to: See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because they fail to comply with 37 CFR 1.84(p). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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3. Claims 4 and 5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 4 recites the new limitations of four pieces of fabric with shape of arms and fingers, another four for the shape of the legs and toes and four pieces of fabric for ears, the studs being plastic and metal, and two triangle shape pieces of cloth. Claim 5 recites the new limitations of the plastic rod being heated on both ends, and that a triangle shaped cloth is wrapped around and permanently glued to hooked shaped section.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 4-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See

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MPEP § 2172.01. The omitted structural cooperative relationships are: the relationship between the twisted pipe cleaner, permanent glue, a plastic rod and two triangle shaped pieces of cloth.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders (2483325), De Grasse (1422840), Noble (4607674), Morris (20010046828) and Francke (1612805). Sanders discloses a posable stuffed cloth doll having front and rear pieces of fabric for outlining the shape of the head and body as well as four pieces of fabric with the shape of the arms and fingers, another four pieces of fabric with the shape of the legs and toes (Figs. 1 & 2). Fabric is also used in the making of the ears (Fig. 1, column 4 lines 9-16). Hair (120) is also attached to the head of the doll on a rearward portion of the head (Fig. 1). De Grasse discloses an internal skeleton for a doll using wire and tubes for the arm and leg sections as well as a rod with hooks on both ends for the head and torso sections (Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of invention from the teachings of De Grasse to modify the stuffed cloth doll of Sanders to have an internal skeleton in order so the doll can take and hold positions similar to that of a human being. Noble discloses a cloth doll having twisted pipe cleaners (40) located within the appendages of the doll that can be covered by an

additional fabric member (Fig. 1, column lines 6-25). It would have been obvious to one of ordinary skill in the art from the teaching of Noble to have the appendage members of the internal skeleton made out of pipe cleaners encased by a fabric member since these elements are shown to be art-recognized equivalents to allow a user to position the doll in a fixed configuration as desired (column 4 lines 6-25). Morris discloses a soft doll with a compartment or pocket formed therein (Fig. 2). It would have been obvious to one of ordinary skill in the art at the time of invention from the teaching of Morris to modify the stuffed cloth doll of Sanders to include a pocket in order to have a place to store accessories and clothing associated with the doll. Francke discloses that toy dolls can be ornamented with jewelry (page 1 line 60). Although the reference does not expressly disclose a ring made of gold cord and plastic and metal studs for earrings it does teach the basic concept of ornamenting a doll with jewelry. It would have been obvious to one of ordinary skill in the art to ornament a toy doll with jewelry in order to make it more interesting and aesthetically pleasing to a child. The examiner notes that the type and kind of jewelry would have been an obvious matter of design choice since the Applicant has not disclosed that the ring and earrings provide an advantage, are used for a particular purpose or solve a stated problem. Furthermore, it has been held that features relating to ornamentation only that have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art. *See in re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947). Regarding the use of polyester fill for filling, polyester yarn for hair, permanent glue for attaching elements and a plastic rod for the skeleton the examiner notes that mere selection of known materials as recited in

claim 4, on the basis of suitability for the intended use would be entirely obvious. *See in re Leshin, 125 USPQ 416 (CCPA 1960)*. Therefore, it would have been obvious to one of ordinary skill in the art to provide the above references with the materials recited in claim 4 in order to use known materials suitable for the intended use. It would have been an obvious matter of design choice to a person of ordinary skill in the art to include two triangle shaped pieces of cloth because Applicant has not disclosed that the pieces of cloth provide an advantage, are used for a particular purpose, or solve a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the fabric as shaped to cover the skeletal elements as disclosed in the references since it allows for protection of the skeletal element.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders, Smalley (2535818), De Grasse, Noble and Haughton (2109422). Sanders discloses a method of forming a posable stuffed cloth doll by sewing together front and rear pieces of fabric for outlining the shape of the head and body as well as pieces of fabric with the shape of the arms and fingers and legs and toes (Figs. 1 & 2). Fabric is also used in the making of the ears (Fig. 1, column 4 lines 9-16). Hair (120) is also attached to the head of the doll on a rearward portion of the head (Fig. 1). Smalley discloses a method of constructing a fabric toy doll by sewing together front and rear fabric pieces to form the head, body legs and arms (Figs. 1 & 3) and placing within these elements the respective parts of a wire skeletal system along with the filling material (Fig. 6), connecting the skeletal elements together and then sewing the doll shut after

completely stuffing the doll (page 1 columns 1-2). It would have been obvious to one of ordinary skill in the art to modify the construction of the doll of Sanders to include an internal skeleton in order to make the doll capable of being placed in fixed positions. De Grasse discloses an internal skeleton for a doll using wire and tubes for the arm and leg sections as well as a rod with hooks on both ends for the head and torso sections (Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of invention from the teachings of De Grasse to modify the shape of the internal skeleton of the references since such a modification would have resulted in a mere change in shape of a component. Changes in shape are generally held to be within the level of ordinary skill in the art. *See in re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Noble discloses a cloth doll having twisted pipe cleaners (40) located within the appendages of the doll that can be covered by an additional fabric member (Fig. 1, column lines 6-25). It would have been obvious to one of ordinary skill in the art from the teaching of Noble to have the appendage members of the internal skeleton made out of pipe cleaners and to encased parts of the skeleton with a fabric member since these elements are shown to be art-recognized equivalents to allow a user to position the doll in a fixed configuration as desired (column 4 lines 6-25). Houghton shows the internal skeletal structure of a fabric doll having finger portions (Fig. 1). It would have been obvious to one of ordinary skill in the art from the teaching of Houghton to give the internal skeleton of the references finger components in order to make the fingers movable and to allow the doll to take and hold positions similar to that of a human being. Regarding the use of polyester fill for filling, polyester yarn for hair, permanent glue for attaching elements

and a plastic rod for the skeleton the examiner notes that mere selection of known materials as recited in claim 5, on the basis of suitability for the intended use would be entirely obvious. *See in re Leshin, 125 USPQ 416 (CCPA 1960)*. Therefore, it would have been obvious to one of ordinary skill in the art to provide the above references with the materials recited in claim 5 in order to use known materials suitable for the intended use. It would have been an obvious matter of design choice to a person of ordinary skill in the art to include two triangle shaped pieces of cloth because Applicant has not disclosed that the pieces of cloth provide an advantage, are used for a particular purpose, or solve a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the fabric as shaped to cover the skeletal elements as disclosed in the references since it allows for protection of the skeletal element. In regard to the rod being heated on both ends so as to bend it to form hooks the examiner notes that such a limitation is merely a matter of design choice to a person of ordinary skill in the art since Applicant has not disclosed that heating provides an advantage, is used for a particular purpose or solves a stated problem. Furthermore, one of ordinary skill in the art would have expected Applicant's invention to perform equally well using any known method of bending since it still results in the bending of the element.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Honda (5182844) and Francke. Honda discloses a fabric toy doll in which felt components such as eyes, a nose and a mouth can be permanently bonded to a toy doll to form facial features (column 1 lines 9-20 and column 3 lines 6-14). Although the reference

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does not expressly state that glue is used to bond the facial elements, the examiner notes that using glue would have been an obvious matter of design choice since Applicant has not disclosed that glue provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art would have expected Applicant's invention to perform equally well with any method of bonding since it would still attach the facial features to the toy. Francke discloses that toy dolls can be ornamented with jewelry (page 1 line 60). Although the reference does not expressly disclose a ring made of gold cord and plastic and metal studs for earrings it does teach the basic concept of ornamenting a doll with jewelry. It would have been obvious to one of ordinary skill in the art to ornament a toy doll with jewelry in order to make it more interesting and aesthetically pleasing to a child. The examiner notes that the type and kind of jewelry would have been an obvious matter of design choice since the Applicant has not disclosed that the ring and earrings provide an advantage, are used for a particular purpose or solve a stated problem. Furthermore, it has been held that features relating to ornamentation only that have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art. *See in re Seid, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).*

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. This action is a **final rejection** and is intended to close the prosecution of this application. Applicant's reply under 37 CFR 1.113 to this action is limited either to an appeal to the Board of Patent Appeals and Interferences or to an amendment complying with the requirements set forth below.

If applicant should desire to appeal any rejection made by the examiner, a Notice of Appeal must be filed within the period for reply identifying the rejected claim or claims appealed. The Notice of Appeal must be accompanied by the required appeal fee of \$255.

If applicant should desire to file an amendment, entry of a proposed amendment after final rejection cannot be made as a matter of right unless it merely cancels claims or complies with a formal requirement made earlier. Amendments touching the merits of the application which otherwise might not be proper may be admitted upon a showing a good and sufficient reasons why they are necessary and why they were not presented earlier.

A reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Hylinski whose telephone number is 571-272-2684. The examiner can normally be reached on M-F (8-5:30).

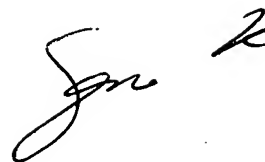
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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AMH

A handwritten signature in black ink, appearing to read 'E. Kim', with a stylized flourish at the end.

EUGENE KIM
SUPERVISORY PATENT EXAMINER